

154 FERC ¶ 61,213
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

San Diego Gas & Electric Company

Docket No. ER16-445-000

ORDER ON INFORMATIONAL FILING

(Issued March 17, 2016)

1. In this order, we accept San Diego Gas & Electric Company's (SDG&E) third annual informational filing (Cycle 3) made under its Fourth Transmission Owner Formula Rate (TO4 or TO4 Formula Rate), effective January 1, 2016.¹

I. Background

2. SDG&E's TO4 Formula Rate was determined as part of a settlement (Settlement)² approved by the Commission on May 27, 2014.³ The Settlement requires, among other things, that SDG&E submit annual informational filings to the Commission showing the base transmission revenue requirements in effect for the succeeding calendar year.⁴ In addition, any party to the Settlement may challenge the justness and reasonableness of SDG&E's implementation of the TO4 Formula Rate, but not the formula itself.⁵

¹ The term "Cycle," as used in SDG&E's informational filing and this order, refers to the number of annual filings made under the formula rate in effect. *See* SDG&E Transmittal at n.2.

² SDG&E, Offer of Settlement, Docket No. ER13-941-000 (filed Feb. 4, 2014) (Settlement).

³ *San Diego Gas & Elec. Co.*, 147 FERC ¶ 61,150 (2014).

⁴ Settlement at 5.

⁵ *Id.* (citing SDG&E OATT, Appendix VIII, Formula Rate Protocols, Sections C.4.d and C.4.g).

3. On December 1, 2015, SDG&E filed its TO4 Cycle 3 formula rate, which includes a revised base transmission revenue requirement reflecting the following components:

(1) prior year revenue requirement for the 12-month period ending December 31, 2014; (2) forecast capital addition revenue requirement for a 24-month period covering 2015 and 2016; and (3) true-up of actual costs from January 1, 2014 through December 1, 2014.⁶

4. Under the TO4 Formula Rate, the Cycle 3 base transmission revenue requirement for wholesale customers of the California Independent System Operator Corporation (CAISO) is \$795.5 million, based upon total gross load of 20,825 GWh, for an overall unit rate of \$38.20/MWh. SDG&E states that this is a 1.5 percent decrease from the Cycle 2 revenue requirement.⁷ The Cycle 3 base transmission revenue requirement for retail end-use customers is \$716.3 million or a 3.33 percent decrease for the rate effective period.⁸ SDG&E states that the changes in transmission rates are due to various reasons, such as a decrease in Operation and Maintenance expenses and Administrative and General expenses, and Commission audit adjustments to Transmission Rate Base and Transmission expenses.⁹ The Cycle 3 base transmission revenue requirement will remain in effect for the Rate Effective Period, which is January 1, 2016 through December 31, 2016.¹⁰

II. Notice of Filings and Responsive Pleadings

5. Notice of SDG&E's TO4 Cycle 3 Filing was published in the *Federal Register*, 80 Fed. Reg. 76,282 (2015), with interventions and protests due on or before December 22, 2015. Timely motions to intervene were filed by Modesto Irrigation District, Northern California Power Agency, California Department of Water Resources State Water Project, Transmission Agency of Northern California, and the City of Santa Clara, California and the M-S-R Public Power Agency. On December 22, 2015, the California Public Utilities Commission (CPUC) filed a notice of intervention and protest. On

⁶ SDG&E Transmittal at 2.

⁷ *Id.* at 4.

⁸ *Id.* at 3.

⁹ *Id.* at 3-4.

¹⁰ *Id.* at 2.

January 5, 2016, SDG&E filed an answer to the CPUC's protest. Six Cities¹¹ and Pacific Gas and Electric Company (PG&E) filed late motions to intervene.

A. CPUC Protest

6. The CPUC requests a hearing, stating that it has identified issues that suggest SDG&E's proposed rates may be unjust and unreasonable.¹² Specifically, the CPUC alleges that SDG&E has periodically failed to provide timely or accurate information to the CPUC and the reviewing engineer¹³ during the engineering audit. The CPUC alleges that the inaccurate or untimely information from SDG&E raises questions about the accuracy of capital addition information in the current filing.¹⁴ The CPUC also asserts that SDG&E has commenced "design or construction of certain projects that should have been deferred or cancelled, while omitting those same projects from the current filing."¹⁵

7. The CPUC asserts there have been several egregious examples illustrating that SDG&E periodically provided information during the course of the engineering audit that was late, inaccurate, or both.¹⁶ As a result, the CPUC questions the accuracy of other information in SDG&E's TO4 Cycle 3 Filing. One example the CPUC provides is that SDG&E allegedly failed to disclose inaccuracies in a power flow case to the reviewing engineer until five months after SDG&E initially had provided it and only after the CPUC explained that SDG&E's San Luis Rey Synchronous Condenser project would not

¹¹ The Six Cities are the cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California.

¹² CPUC Protest at 1, 7.

¹³ For the TO4 Formula, SDG&E will (a) jointly select with the CPUC a reviewing engineer to review transmission facilities added to the SDG&E transmission system at voltage levels of at least 69 kV and below 200 kV items, and projects whose costs are equal to or greater than \$3,000,000; (b) support the CPUC and the reviewing engineer's ability to participate in the CAISO's review of SDG&E's projects; and (c) make available \$200,000 to be spent on the engineering review in each cycle, subject to an annual inflation adjustment. Settlement, Article II (Engineering Audit and Quarterly Reports).

¹⁴ CPUC Protest at 2-3.

¹⁵ *Id.*

¹⁶ *Id.* at 3.

be needed.¹⁷ In another example, the CPUC alleges that SDG&E indicated that CAISO had approved installation of the San Onofre Synchronous Condenser Unit at the San Onofre Nuclear Generating Station switchyard in San Diego County, with provisions for a second unit, as part of the South Orange County Dynamic Reactive Support Project, even though the CAISO 2012-2013 transmission plan shows that this project is located in the Southern California Edison Company service area, outside of the location of San Diego County where SDG&E proposes to build it.¹⁸ Next, the CPUC alleges that the SDG&E twice updated its list of projects to add new synchronous condenser projects for the reviewing engineer to review and for which SDG&E stated it had already incurred costs as of January 2015.¹⁹ Finally, the CPUC alleges that there have been several other examples of inaccurate data from SDG&E,²⁰ suggesting, in total, that SDG&E's capital additions information is unreliable.²¹

8. The CPUC also raises concerns about SDG&E designing or constructing projects that the reviewing engineer recommended deferring or cancelling.²² The CPUC states that, while SDG&E maintains that none of these projects are included in the TO4 Cycle 3 forecast, the engineering audit revealed that SDG&E has already incurred transmission costs on at least five projects.²³ The CPUC asserts that SDG&E should not, at a minimum, pursue several of these projects, including the installation of the San Luis Rey Synchronous Condenser project and the installation of the one San Onofre Synchronous

¹⁷ *Id.*

¹⁸ *Id.* at 3-4.

¹⁹ *Id.* at 4.

²⁰ *Id.* at 4. The CPUC cites to the reviewing engineer's independent audit, which states that SDG&E provided inaccurate data regarding the line rating for the Japanese Mesa – Las Pulgas line and the in-service dates of the Kearny generators and Bay Boulevard Substation, which increased the time and effort needed to complete the audit. *See* CPUC Protest at Attachment B, Independent Audit of SDG&E TO4, Cycle 3 at 21.

²¹ CPUC Protest at 4.

²² According to the CPUC, the reviewing engineer analyzed 26 of SDG&E's proposed projects and recommended that SDG&E alter one project, defer seven projects, and cancel three projects. *Id.* at 5.

²³ *Id.*

Condenser Unit with provisions for a second unit, and that reflecting the costs of these projects in rates would be unjust and unreasonable.²⁴

B. SDG&E Answer

9. SDG&E argues that the CPUC fails to raise any factual or legal bases regarding the cost inputs at issue in this TO4 Cycle 3 proceeding, and thus should be dismissed.²⁵ SDG&E argues that, instead, the CPUC's arguments are based on SDG&E's alleged periodic failure to provide timely and/or accurate information to the CPUC and the reviewing engineer during the course of the engineering audit. SDG&E asserts that the CPUC raises alleged issues to do with projects that are not germane to this TO4 Cycle 3 proceeding because (1) the projects will not be in service until sometime after the TO4 Cycle 3 Forecast Period ends on December 31, 2016, and (2) SDG&E has included no costs associated with these projects in this TO4 Cycle 3 proceeding.²⁶

10. SDG&E goes on to explain that the CPUC was privy to the pre-filing procedures, and had an opportunity to review the approximately 155 data responses on all aspects of the draft TO4 Cycle 3 Informational Filing produced in the pre-filing phase of this proceeding. SDG&E asserts that, had there been imprudent or inaccurate cost inputs, they would have been revealed in the comprehensive pre-filing procedures and discovery. SDG&E notes that only the CPUC filed a protest in this proceeding, and contends that the issues the CPUC raises are irrelevant and immaterial to this proceeding.²⁷

11. In addition, SDG&E asserts that, with respect to imprudence, it is well-settled that utilities are entitled to a presumption of prudence regarding costs incurred to provide service and that the party challenging prudence must cast serious doubt on costs in question before the burden shifts to the utility to demonstrate that the costs were prudently incurred.²⁸ SDG&E notes that the CPUC does not allege imprudence with respect to any cost item at issue in this proceeding.

²⁴ *Id.* at 6.

²⁵ SDG&E Answer at 3.

²⁶ *Id.*

²⁷ *Id.* at 5.

²⁸ *Id.* (citing *New England Power Company*, 31 FERC ¶ 61,047, at 61,084 (1985) and *Midwest Indep. Transmission Sys. Operator, Inc. and American Transmission Systems, Inc.* (MISO Vegetation Management Order), 117 FERC ¶ 61,108, at P 15 (2006)).

12. SDG&E also argues that the CPUC's allegations regarding the timing and inaccuracy of information provided in the context of an engineering audit report are based on a misapprehension of facts surrounding projects that are outside of the scope of this TO4 Cycle 3 Informational Filing. While SDG&E reiterates that the allegations are not relevant to this proceeding, it does address them, explaining first that the information provided during the engineering audit was not late, and that SDG&E responded to data requests on average within 15 business days.²⁹

13. In connection with the San Luis Rey Synchronous Condenser project, SDG&E asserts that the CPUC implies that SDG&E knowingly provided the reviewing engineer with a power flow case with a serious error and that it did not notify the reviewing engineer of the error for five months.³⁰ However, SDG&E argues that this allegation is incorrect and that it notified the CPUC promptly upon discovering that it had provided a "low load" power flow case rather than the correct "high load" power flow case. SDG&E states that it followed up by sending the correct power flow case within six days. In addition, SDG&E argues that the power flow case it initially sent tended to reduce the apparent need for various transmission upgrades, and thus its mistake was not deliberate.³¹ In addition, SDG&E asserts that the other examples of untimely or inaccurate information raised in the protest were generally attributable to miscommunications or updates reflecting changed circumstances.³²

14. SDG&E also argues that, with regard to the installation of the synchronous condenser units in San Luis Rey and San Onofre, the CPUC's assertion regarding imprudence is without merit and insufficient to shift the presumption of prudence away from SDG&E. SDG&E also notes that CAISO has already approved these projects in its open and nondiscriminatory transmission planning process to meet reliability purposes.³³

15. With regard to the San Onofre Synchronous Condenser Unit, also referred to as the South Orange County Dynamic Reactive Support, SDG&E asserts that it does indeed have CAISO approval, contrary to the CPUC's contention. SDG&E notes that the

²⁹ *Id.* at 6.

³⁰ *Id.* at 7-8.

³¹ *Id.* at 8.

³² *Id.* at 7.

³³ *Id.*

approval is included in CAISO's 2013-2014 transmission planning process.³⁴ SDG&E also notes that it sent the relevant tables from the 2013-2014 transmission planning process to the CPUC.³⁵

16. SDG&E asserts that CAISO has analyzed the projects at issue and determined, in its open and non-discriminatory transmission planning process, that the projects are needed as a part of the Southern California bulk power system to enhance reliability. SDG&E maintains that deferring or delaying these projects, as the CPUC advocates, runs counter to CAISO's determination and would adversely affect reliability. SDG&E also contends that nothing in the TO4 Settlement gives the CPUC or the reviewing engineer the right to trump CAISO's and SDG&E's reliability determination.³⁶ SDG&E argues that the CPUC must address its concerns about projects during the relevant transmission planning process, not after their approval.³⁷

III. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), the Commission will accept Six Cities and PG&E's late-filed motions to intervene given their interests in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept SDG&E's answer because it has provided information that assisted us in our decision-making process.

³⁴ *Id.*

³⁵ *Id.* at 8-9.

³⁶ *Id.*

³⁷ *Id.* at 9.

IV. Discussion

20. We accept SDG&E's TO4 Cycle 3 Filing, effective January 1, 2016, as requested. We find that SDG&E's informational filing sets forth the information it is required to file under the terms of the Settlement, and shows the base transmission revenue requirement in effect for the next calendar year.

21. We find that the CPUC has not demonstrated that a hearing is needed to resolve any disputed issues of material fact related to SDG&E's TO4 Cycle 3 Filing or SDG&E's implementation of the formula rate. Specifically, we find that the CPUC's claims of SDG&E providing untimely and inaccurate information to the CPUC and the reviewing engineer during the engineering audit are beyond the scope of this inquiry. While the CPUC generally asserts that SDG&E's information regarding capital additions cannot be relied upon and should be set for hearing, it has presented the Commission with no evidence of any misrepresentation or error in the filing before the Commission. We note that, as SDG&E explains, the CPUC was privy to the pre-filing procedures, and had an opportunity to review the approximately 155 data responses on the draft TO4 Cycle 3 Filing produced in the pre-filing phase of this proceeding.³⁸ Finally, as SDG&E notes in its answer, the CPUC makes no argument that SDG&E's costs set forth in the TO4 Cycle 3 Filing were imprudently incurred.³⁹

22. In response to the CPUC's assertion that SDG&E had commenced design or construction of certain projects that should have been deferred or cancelled, while omitting those same projects from the current filing, as well as the CPUC's protest regarding the prudence of the San Luis Rey and San Onofre Synchronous Condenser Units, we find that these arguments are outside of the scope of this proceeding. SDG&E has not included these projects in its forecasted capital additions for purposes of recovering costs in the current Rate Effective Period; therefore, these projects are immaterial to this proceeding. If and when expenditures related to these projects are included in an SDG&E rate filing with the Commission, the CPUC may submit a protest or comments on such expenditures at that time. We also encourage the CPUC to address concerns regarding whether certain of SDG&E's projects should be selected in CAISO's transmission plan in the relevant CAISO transmission planning process cycle.⁴⁰

³⁸ SDG&E Answer at 5.

³⁹ *Id.*

⁴⁰ See CAISO Tariff sections 24.3.3 (Stakeholder – Unified Planning Assumptions) and 24.4.9 (Phase 2 Stakeholder Process).

The Commission orders:

SDG&E's TO 4 Cycle 3 Filing is hereby accepted for filing, to become effective January 1, 2016, as requested.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.